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**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
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**ORIGINAL**  
ILLINOIS  
COMMERCE COMMISSION  
2002 OCT 28 A 10:48

RURAL ELECTRIC CONVENIENCE )  
COOPERATIVE CO., and SOYLAND )  
POWER COOPERATIVE, INC., )

Complainants. )

vs. )

CENTRAL ILLINOIS PUBLIC SERVICE )  
COMPANY d/b/a AMERENCIPS, )

Respondents. )

CHIEF CLERK'S OFFICE

DOCKET NO. 01-0675

**MOTION TO COMPEL**  
**BY RURAL ELECTRIC CONVENIENCE COOPERATIVE CO.**

RURAL ELECTRIC CONVENIENCE COOPERATIVE CO. (RECC), Complainant (RECC) by its attorneys GROSBOLL, BECKER, TICE & REIF, herewith files its Motion to Compel against CENTRAL ILLINOIS PUBLIC SERVICE COMPANY, d/b/a AMERENCIPS (CIPS), Respondent, and FREEMAN UNITED COAL MINING COMPANY (Freeman) (Intervenor) pursuant to 83 Ill Adm Code Section 200.335(5)-200.430 and Illinois Supreme Court Rules 201 and 219 and in support thereof states as follows:

1. On or about December 18, 2001, Freeman United Coal Mining Company (Freeman) filed its Petition to Intervene in this matter which intervention was allowed by the Administrative Law Judge, on February 26, 2002.

2. On February 26, 2002, the Administrative Law Judge set the following schedule:

A. CIPS and Freeman were to file their answers to the Complaint by March 12, 2002.

B. RECC was to answer any Counter Claims filed by CIPS and Freeman by March 19, 2002.

C. Each party was to serve their discovery requests by April 9, 2002.

D. Each party was to respond to discovery requests by May 9, 2002.

3. Freeman filed its Answer to the Complaint of RECC, together with a Cross Complaint on or about March 12, 2002 and in addition a Motion to Strike Soyland Power Cooperative, Inc., (Soyland) as a Party Plaintiff. RECC responded to the Freeman Cross Complaint and Motion to Strike Soyland as a Party Plaintiff on or about April 19, 2002.

4. CIPS filed its Answer and Affirmative Defenses and Counter Claim to the RECC Complaint and a Motion to Strike Soyland as Party Plaintiff on or about March 12, 2002. RECC responded to the CIPS Affirmative Defenses and Counter Claim on or about April 22, 2002 and responded to the Motion to Strike Soyland as Party Plaintiff on May 9, 2002.

5. RECC served its Interrogatories and Data Requests upon CIPS on April 10, 2002.

6. RECC served its Interrogatories and Data Requests upon Freeman on April 10, 2002.

7. Freeman filed a Motion to Stay Response to RECC's discovery on or about April 25, 2002 and the Administrative Law Judge stayed discovery responses by Order entered April 26, 2002.

8. On June 25, 2002 RECC filed a Motion to Vacate the Discovery Stay which motion was granted by Order of the Administrative Law Judge entered on June 26, 2002.

9. On September 26, 2002 Counsel for RECC communicated by letter with counsel for CIPS and Freeman requesting that both parties respond to RECC's data requests by September 11, 2002, a copy of that letter being attached to this Motion to Compel. On September 4,

2002, counsel for CIPS responded that CIPS would reply to the RECC discovery requests of CIPS by September 25, 2002. On or about early September 2002 counsel for Freeman communicated by telephone to counsel for RECC that Freeman was about to complete their response to RECC's discovery requests of Freeman and they would be furnished promptly. Counsel for Freeman requested that RECC return the signed Proprietary Agreement. On September 30, 2002, RECC's counsel furnished Freeman's counsel a copy of the Proprietary Agreement signed by RECC's counsel. Freeman has failed to return a copy of the Proprietary Agreement signed by Freeman's counsel to RECC's counsel.

Neither CIPS or Freeman have responded to RECC's Interrogatories and Data Requests nor have they filed any objections thereto even though such discovery requests have been in the possession of CIPS and Freeman since April 10, 2002, any stay of discovery has been terminated since June 26, 2002, RECC has signed the Proprietary Agreement requested by Freeman and both counsel for CIPS and Freeman have promised prompt responses to RECC's discovery requests.

WHEREFORE, RECC requests the following relief:

A. That the Administrative Law Judge enter an Order compelling CIPS and Freeman to respond to RECC's Interrogatories and Data Requests on or before November 12, 2002.

B. That failure to respond fully to such Interrogatories and Data Requests by such date shall bar CIPS and Freeman from presenting any Counter Claim and/or defense to the Complaint filed herein by RECC for service rights to the Freeman United Coal Mining Company electric service.

C. To assess attorneys fees incurred by RECC in compelling response by CIPS and Freeman to the Interrogatories and Data Requests of RECC.

D. For such other and further relief as the Administrative Law Judge and Illinois Commerce Commission deem equitable.

RURAL ELECTRIC CONVENIENCE  
COOPERATIVE, CO.

By: GROSBOLL, BECKER, TICE & REIF

By: \_\_\_\_\_

One of its attorneys

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reccmotcompel675.jtrecc

**PROOF OF SERVICE**

I, JERRY TICE, hereby certify that on the 25 day of October, 2002, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

Mr. Scott Helmholz  
Sorling, Northrup, Hanna  
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Michael Hastings  
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A handwritten signature in cursive script, appearing to read "Jerry Tice", is written over a horizontal line.